



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,665	07/07/2003	Larkin Hill Lowrey	0307091.0156	7577

35602 7590 06/06/2005

STEPHEN C. GLAZIER
KIRKPATRICK & LOCKHART LLP
1800 MASSACHUSETTS AVENUE, NW
WASHINGTON, DC 20036

EXAMINER

BROADHEAD, BRIAN J

ART UNIT	PAPER NUMBER
----------	--------------

3661

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,665

Applicant(s)

LOWREY ET AL.

Examiner

Brian J. Broadhead

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3-15-05, 5-23-05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1-67, and 69 through 77 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 7-16, 20-22, and 27-34 of copending Application No. 09/804888. Although the conflicting claims are not identical, they are not patentably distinct from each other because they use some different terms that are obvious replacements for each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

1. Claim 68 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 7-16, 20-22, and 27-34 of copending Application No. 09/804888 in view of Lin et al., 6400701. . Lin et al. teaches using a wireless access protocol when accessing the internet through a wireless connection on lines 41-56, on column 11. It would have been obvious to one of

ordinary skill in the art to use the WAP of Lin et al. in the above invention because such modification would allow wireless internet access to the maintenance information.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

2. Claims 1 through 67 and 69 through 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lange et al. 6295492, in view of Shetty et al., 5808907.

3. As per claims 1 through 67 and 69 through 77, Lang et al. disclose generating a data packet from the vehicle using a wireless appliance, the data packet containing numerical diagnostic data from a computer in the vehicle on lines 30-33, on column 3; transmitting the data packet over an air link with the wireless appliance so that the data packet passes through a network and to a host computer system on lines 30-33, on column 3; processing the data packet with the host computer system to generate numerical diagnostic data on lines 35-40, on column 3, wherein the generated information comprises at least one of vehicle status reports and vehicle service recommendations that comprise at least one of text messages and icons in figure 2; and displaying the numerical diagnostic data on a web site hosed on the internet, the web site comprising a series of pages corresponding to individual vehicles and a series of pages corresponding to a group of vehicles on lines 60-65, on column 4; having multiple vehicles transmitting data packets on lines 9-10, on column 3; extracting numerical data from the data packet on lines 11-15, on column 3; the processing step further includes generating a set of data that comprises an alphanumeric text message on lines 35-40, on column 3; generating and displaying a set of data that comprises an alphanumeric

text message in figure 2; and the vehicle parameter is a trouble code and the text message describes the active or pending diagnostic trouble code on lines 25-30, on column 3; the web site implementing a first web interface having a first login and dedicated to presenting information about said vehicle, and a second web interface having a second login and presenting information about a group of vehicle including said vehicle on lines 38-45, on column 2; wherein the transmitted data contains one or more vehicle parameters and wherein the processing step further includes processing at least one of the vehicle parameters with a database software on lines 39-41, on column 4. Lange et al. do not disclose the step of sending an electronic mail message that comprises all or part of the alphanumeric text and with the host computer comparing the data to at least one data value to generate diagnostic data or location information; the alphanumeric text message comprises a 5, 6, or 7 digit code that describes the active or pending diagnostic trouble code on lines 15-17, on column 3; the processing step further comprises processing at least one numerical parameter with a mathematical equation on lines 37-41, on column 2; the processing step further comprises comparing and displaying at least one numerical parameter with at least one numerical parameter generated at an earlier point in time on line 2, on column 3; the numerical value is a mileage value, the alphanumeric text message includes one parameter from the numerical data, and displaying the alphanumeric text message on the web page in figure 2; the web site comprises a login page and fields for entering a multiple user name and password on line 17, on column 4; the first user corresponds to

a vehicle owner and a second user name corresponds to a corporation with a fleet of vehicles on line 5, on column 3.

4. Shetty et al. teaches of sending an electronic mail message that comprises all or part of the alphanumeric text on lines 33-50, on column 2; and with the host computer comparing the data to at least one data value to generate diagnostic data or location information on lines 28-37, on column 2. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the email and alerts of Shetty et al. in the invention of Lange et al. because such modification would provide a warning manager that provide a method for providing information relating to a mobile machine.

5. Claim 68 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lange et al., in view of Shetty et al. as applied to claims 1-67 above, and further in view of Lin et al., 6400701.

6. Lang et al. and Shetty et al. discloses the limitations as set forth above. Lange et al. and Shetty et al. does not disclose the graphical interface is formatted with at least one wireless access protocol. Lin et al. teaches using a wireless access protocol when accessing the internet through a wireless connection on lines 41-56, on column 11. It would have been obvious to one of ordinary skill in the art to use the WAP of Lin et al. in the above invention because such modification would allow wireless internet access to the maintenance information of the Shetty et al. and Lange et al.

Response to Arguments

7. Applicant's arguments filed 3-15-05 have been fully considered but they are not persuasive. The first argument deals with "generating diagnostic or location information

that is at least in part derived from the received data" which was discussed in the last office action. The term "generating" is broad and could simply be Lang's act of formatting the data to the form used in the interface. The second argument that states Shetty et al. do not disclose a web-based system. Lang et al. were cited for providing a web based system. The final argument with respect to Lin et al. is not convincing because Lin et al. was not cited for teaching a first and second interface for displaying information received from a vehicle. Lin et al. was cited for a teaching of using WAP. Shetty et al. already discloses the two interfaces.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 571-272-6957. The examiner can normally be reached on Monday through Thursday.

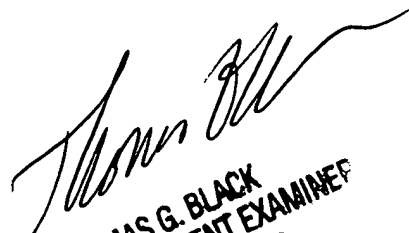
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/614,665
Art Unit: 3661

Page 7


BJB


THOMAS G. BLACK
SUPERVISORY PATENT EXAMINER
GROUP 3661